

Issue Paper Number 00-010



BOARD OF EQUALIZATION
KEY AGENCY ISSUE

- ☐ Board Meeting
- ☐ Business Taxes Committee
- ☒ Customer Services and Administrative Efficiency Committee
- ☐ Legislative Committee
- ☐ Property Tax Committee
- ☐ Other

Sales, Use, and Excise Tax Out-of-State and Internet Sales Publicity Plan

I. Issue

Should the Board aggressively inform consumers of their tax obligations on purchases made from out-of-state vendors, with an emphasis on purchases made over the Internet?

II. Staff Recommendation

Staff recommends that the Board initiate an educational outreach effort and approve the attached publicity plan in concept.

III. Other Alternative(s) Considered

The other alternative considered was to continue the current method of disseminating information through news releases and publications distributed as hard copies and by Internet.

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IV. Background

The use tax, originally enacted to protect California merchants from unfair out-of-state competition, generally applies to all purchases of tangible personal property, which the purchaser stores or uses in the state. The purchaser is responsible for reporting and paying the tax unless he/she pays sales tax to a retailer registered with the Board. However, many purchasers, particularly those who are not registered with the Board, are unaware of or unclear about their obligation to report and pay the use tax. These purchasers do not report their use tax liability to the Board and are usually surprised and upset when the Board contacts them for payment.

The increase in retail selling over the Internet is generating a number of confusing tax issues for taxpayers. To encourage development of e-commerce, both the Federal and California State governments passed Internet Tax Freedom acts in 1998. Both acts imposed three-year moratoriums on the enactment of certain types of taxes on Internet transactions. None of the prohibited taxes included the sales or use tax. However, many buyers from Internet retailers appear to believe that the acts bar the imposition of sales or use tax on e-commerce purchases. This belief is exacerbated by e-commerce businesses that advertise their sales as “tax free.” Additionally, purchasers are often unaware that they are required to pay excise taxes on e-commerce sales of cigarettes and tobacco products distributed in California.

According to the U.S. Commerce Department, the number of Internet users is doubling every 100 days. This increase in users will almost certainly result in an increase in e-commerce sales. To help better educate the public, staff would like to conduct an extensive education outreach effort.

V. Staff Recommendation

A. Description of the Staff Recommendation

Staff recommends that the agency implement the attached publicity plan.

B. Pros of the Staff Recommendation

1. A wider distribution of information that will reach more taxpayers.
2. Increased taxpayer compliance with the law through education.
3. Fewer taxpayer “surprises” and complaints.
4. Negate the unfair advantage of out-of-state sellers.

C. Cons of the Staff Recommendation

1. The tax may be perceived as a “new” tax.
2. The agency may be seen as being too aggressive in collecting this tax.

D. Statutory or Regulatory Change

None required.

E. Administrative Impact

None.

F. Fiscal Impact

1. Cost Impact

Potential minimal costs for mass distribution of hard copies.

2. Revenue Impact

Not determined. It may be assumed that taxpayer compliance would increase, which would generate additional revenue; however, the amount of that gain cannot be determined at this time.

G. Taxpayer/Customer Impact

An increased number of taxpayers would be made aware of the consumer use tax and how it should be remitted to the Board. Increased awareness would enable more taxpayers to voluntarily comply with the law.

H. Critical Time Frames

None.

VI. Alternative 1

A. Description of the Alternative

Continue the current method of providing consumer use tax information to taxpayers through news releases and publications provided in hard copy and by Internet

B. Pros of the Alternative

Systems are already in place to produce and disseminate the current information.

C. Cons of the Alternative

Only a small percentage of taxpayers receive the information they need about the use tax and how to collect and/or pay it.

D. Statutory or Regulatory Change

None required.

E. Administrative Impact

None.

F. Fiscal Impact

1. Cost Impact

None.

2. Revenue Impact

Continued loss of taxes.

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G. Taxpayer/Customer Impact

Many taxpayers will not be made aware of their tax obligations and the process for voluntary compliance.

H. Critical Time Frames

None.

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